IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOCELYN TOMPKIN, Plaintiff, -vs- THE AMERICAN TOBACCO COMPANY, et al, Defendants.	Cause No. 5:94-CV-1302

DEPOSITION UPON ORAL EXAMINATION OF
DR. JOAN HOFF

BE IT REMEMBERED, that the deposition upon oral examination of DR. JOAN HOFF, appearing at the instance of Plaintiff, was taken at the conference room of the Wingate Inn, 2305 Catron Street, Bozeman, Montana, on Friday, June 29, 2001, beginning at 9:40 a.m. Pursuant to Montana Rules of Civil Procedure, before Laurine Brinkman, a Registered Professional Reporter (RPR) and Notary Public for the State of Montana.

INDEX

http://legacy.library.ucsf.edu/tid/rmn05a00/pdf
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	Page/Line
Direct Examination by Mr. Smith	4,9

EXHIBITS

		Page/Line
Exhibit 1:	Notes of Dr. Hoff. (Subsequently stipulated that a copy may be substituted for the original and the original was returned to the Deponent.)	19,7
Exhibit 2:	Handwritten notes.	19,7
Exhibit 3:	Report on Tobacco by Professor Joan Hoff, Ohio University.	19,7
Exhibit 4:	Joan Hoff reliance materials.	19,7
Exhibit 5:	Copy of background articles.	20,15

REQUESTS FOR PRODUCTION

BY MR. SMITH:

		Page/Line
1)	Current CV.	39,11
2)	Case number and location for Rogers, Dunn and Whitely.	51,12
3)	Reports of Dr. Hoff for Rogers, Dunn and Whitely.	51,19
4)	First report prepared by Dr. Hoff.	59,8
5)	All drafts of Dr. Hoff.	60,7
6)	Copy of materials cited in Dr. Hoff's report.	95,17

APPEARANCES

ATTORNEYS APPEARING (TELEPHONICALLY) ON BEHALF OF THE PLAINTIFF, JOCELYN TOMPKIN:

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Mr. A. Russell Smith
Mr. R. Bryan Nace
503 Key Building
159 South Main Street
Akron, OH 44308

ATTORNEYS APPEARING ON BEHALF OF THE DEFENDANTS, LORILLARD TOBACCO COMPANY AND LORILLARD, INC. and PHILIP MORRIS:

Mr. Craig Proctor
Mr. Richard A. Hill
Shook, Hardy & Bacon, LLP
1 Kansas City Place.
1200 Main Street
Kansas City, MO 64105-2118

Mr. Patrick McLaughlin (TELEPHONICALLY)
(Lorillard Tobacco Company and Lorillard, Inc. Only)
McLaughlin & McCaffrey, LLP
Eaton Center, Suite 1350
Cleveland, OH 44114-2500

ATTORNEY APPEARING (TELEPHONICALLY) ON BEHALF OF DEFENDANT LIGGETT GROUP, INC.:

Ms. Colleen Hanrahan
McDonald, Hopkins, Burke & Haber
2100 Bank One Center
600 Superior Avenue, E.
Cleveland, OH 44114-2653

ATTORNEY APPEARING (TELEPHONICALLY) ON BEHALF OF DEFENDANTS AMERICAN BRANDS, INC. and THE AMERICAN TOBACCO COMPANY:

Mr. Ben Shively
Dinsmore & Shohl, LLP
1900 Chemed Center
225 East Fifth Street
Cincinnati, OH 45202

WHEREUPON, the following proceedings were had and testimony taken to wit:

. . . .

DR. JOAN HOFF

called as a witness herein, having been first duly sworn

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was examined and testified as follows:

DIRECT EXAMINATION

MR. PROCTOR: Russ, before we get started, Russ, particularly to make things easier for the court reporter, can I assume that if I make an objection that that objection will go as to all defendants as well?

MR. SMITH: Sure.

MR. PROCTOR: And that we'll try to make it such that hopefully I will be the only one that will have to object. There will be a few exceptions though.

MR. SMITH: That's a good idea.

MR. PROCTOR: Thank you.

BY MR. SMITH:

Q. Will you state your name please, ma'am?

A. Joan Hoff, H-O (double) F, as in Frank.

Q. And your address, please?

A. [DELETED]

Q. 10 --

A. [DELETED]. There are only 800 people up there. I don't know why the number is in the thousands.

Q. Okay. And your office address?

A. That's at Ohio University, Contemporary History Institute, Brown House, Athens.

Q. And you'll be back at Ohio University as of when?

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A. I won't really be back there to teach this year because I have a research leave beginning in September but I'll be back there for Ph.D., Defenses and Comps sometime in the fall, for a couple of weeks.
Q. The [DELETED] address, do you have a street address as well?
A. No, we don't.
Q. Okay, it's actually, do you live on a street?
A. I live on a street. If you use the mail, you obviously use the Post Office Box, but if you mail anything UPS or Fed Ex, you send it to the [DELETED]
There is a road called [DELETED], but we don't use the roads.
Q. [DELETED]
A. [DELETED]
Q. [DELETED]
A. Right.

Q. H-E-A-V-Y?
A. Yes. But really what you need is the condo name, [DELETED] No one knows where [DELETED] is.
Q. [DELETED]?
A. Yes.
Q. [DELETED].
A. Yes, that's correct.
Q. Thank you. Is that your usual residence or just this summer?
A. Well, it will be my residence really until the end of the year.

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Q. And that's in [DELETED]?
A. No, [DELETED]
Q. Oh, you already told me that, I'm sorry.
A. [DELETED]
Q. We have your -- I guess before I go into what we have, can you tell us what you have there with you today, please?
A. Yeah, I have the report, which you have. I have a few notes I took on the Tompkin depositions, which you also have, and I think I also have the earlier expert witness report in the Tompkin case.
Q. Do you have anything else?
A. No, that's it.
Q. I don't want to be -- I think we're not

speaking -- we're not focusing on the same thing.
It's my understanding that you have exhibits with you as well though.
A. Yes, the attorneys have those.
MR. PROCTOR: Russ, this is Craig. The reliance exhibits that we produced to you a few days ago, a full set of those is in the room with us.
BY MR. SMITH:
Q. Dr. Hoff, were the reliance exhibits obtained by you or by the attorney?
A. These were obtained by the attorneys after consulting with me about what I wanted to look at.
Q. And then you would give them -- did you give them the types of things you wanted to look at and they

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Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

obtained them?

A. Yes. The types and then in terms of specific dates, it was fairly easy to designate some of those as well.

Q. And dates you were looking for would have been what?

A. Well, in this instance, dates that would have been relevant to reports, in the newspaper reports in particular in the 1950s and first half of the 1960s.

Q. So you were looking for newspaper reports between 1950 and 1965?

A. Yes, newspaper reports, among other things, yes.

Q. And what did you ask them to obtain for you?

A. What I was looking for in particular was the way in which either newspapers or national news magazines were publicizing or popularizing some of the scientific reports coming out of the 1950s and 1960s.

Q. And that's what you asked them to obtain for you.

A. Yes.

Q. Did ask you them to obtain any other information, other than newspaper reports?

A. Yeah. What I also was interested in looking at were either reports or legislative records concerning the educational system in Ohio with specific reference to health and hygiene education.

Q. Did you ask them to obtain anything else for you? Forgive me for one second, I'm sorry. I want to follow-up

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on the reports or legislative records in Ohio.
Were you asking them to obtain information that would apply to tobacco?
A. Well, I -- obviously to get at tobacco in terms of the educational system, you'd have to look at any kind of the state legislation that would have required the teaching of topics on health relating to alcohol, tobacco and the narcotics.
Q. Is that what you were asking them to obtain for

you?
A. Yeah. I mean, the legislation would be the general legislation and then any specific reports or curriculum guidelines that might have been issued by the State.
Q. In so far as tobacco was concerned?
A. In so far as health-related matters were concerned and in that you would find some reference to tobacco.
Q. Did you want them to obtain for you all the material relating to health or just that that would involve tobacco?
A. Well, in getting at the material in tobacco, for example, you would have to generally provide a listing of the textbooks on health and hygiene.
Q. Did you ask them to obtain anything else for you?
A. Let me think. I already had, because of previous cases, information about national newspapers and national news magazines in my possession, so that didn't have to be provided separately. Basically I was asking them for

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Ohio-specific material to flesh out information that would pertain in this particular case with respect to the plaintiff.

Q. The national information that you had from other cases, was it obtained for you by the attorneys to review in those cases at your request?

A. Some of it was and some of it wasn't because I began this back in 1994 when I had access at Indiana University to a number of graduate students who helped me with the initial research.

Q. And do you have the ability to determine what those students obtained for you?

A. Back in 1994?

Q. Yes, ma'am.

A. It was Indiana specific to a certain degree so I had a lot of information from the Indianapolis Star. They gathered some material from Life and Times and from the New York Times we did a search of the index of the New York Times back in 1994.

Q. And you asked them to obtain information from the Indianapolis Star, Lifetime [sic], and the New York Times index for you?

A. Yes. When I initially started the research, my graduate students did a lot of that basic work.

Q. And you asked them to obtain information that pertained to what?

A. To references to tobacco.

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Q. Then I take it from the information that they got you, you would cull out what seemed significant to you?
A. Yes, back in that time period that was quite true. Sometimes they would just give me -- I think you

have an example of it, in fact, from a graduate student of Ohio, where they would just give me a running list of the headlines and major stories.
Q. Did you have anybody obtain scientific information for you?
A. No. I'm not a witness in that area and so I really didn't have the scientific information, other than secondary references that would occur, for example, in some of the national magazines.
Q. The articles you were looking for in national magazines were articles, in general, talking about tobacco?
A. Yes.
Q. Did you ask anyone to obtain information for you pertaining to advertising?
A. I think in perhaps the Rogers case I did ask for that information to make sure that I had familiarized myself with some of the national ads.
Q. And what type of information did you ask them to obtain for you in the Rogers case?
A. I was again simply trying to fill in some gaps in my own information about national advertising as it might have been viewed by the average reader.
Q. And what kind of information did you get to do

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that?

A. I simply Xeroxed copies of ads, tobacco ads.
Q. Who provided those to you?
A. Pardon me?
Q. Who got those for you?
A. At that time the Shook, Hardy & Bacon people provided that.
Q. Do you have -- are those ads in the boxes that are with you there today?
A. I think a few of them are, but I don't think anywhere near a complete run is here today.
Q. Have we covered the materials that you reviewed in conjunction with your report in this case? Is there additional material we should be talking about?
A. I'm not quite sure what you mean, since we haven't talked about any material yet. What additional material are you referring to?
Q. I thought we were talking -- I'm talking about what material you've obtained over time.
A. Yes.
Q. Have we covered that?
A. I think so. You haven't covered -- I've read a number of secondary accounts and monographs.
Q. Okay. And how did you obtain those?
A. Through the libraries.
MR. PROCTOR: Russ, one objection. Russ, also

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the materials obviously contained in the three boxes of reliance materials to the extent she hasn't specifically listed those, those are obviously materials that she has read and reviewed.

BY MR. SMITH:

Q. Those are the materials that you indicate the attorneys for Shook, Hardy & Bacon have with them today.

A. Yes.

Q. And it's my understanding you've already described those materials to me; is that correct?

A. Basically.

Q. We have covered those, I think.

A. Basically, yes.

Q. The secondary account and monographs, tell us about how you obtained those.

A. Just through the various libraries I would have access to since 1994.

Q. And those would be things -- would you get those or would some of your students or the attorneys get those for you?

A. Mainly my students and I initially got them and increasingly as I haven't had graduate or assistant backup, I would just check them out myself.

Q. And how would you make a determination what would be checked there?

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A. Again, simply by following the literature, secondary literature on tobacco. It's fairly easy once you start with some of the studies of the '70s to keep abreast of the latest publications.
Q. And a secondary account would mean what?
A. It would be an account like Susan Wagner's book on Cigarette Country. Richard Kluger's's book From Ashes to Ashes. Any monograph on the uses of tobacco or the tobacco industry.
Q. And --
A. It's kind of a standard historical procedure to fill yourself in on any subject by looking at secondary sources.
Q. And the monograph?
A. Same.
Q. Pardon?
A. It would be the same answer. Secondary sources consist of highly specialized monographs and then general publications in any given field.
Q. Did you read all the general publications on tobacco?
A. Well, again, I wouldn't say I've read them all. I think I've read most of the major ones since the 1970s.
Q. And are they listed in your reliance materials?
A. They're cited, a representative sample of them are

cited in the expert report. They wouldn't be in the reliance materials, per say, simply because they're

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Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

publications that are readily available.

Q. Do you have a list of everything that you reviewed?

A. For this case?

Q. Yes.

A. I don't have an index to the reliance materials. I understand one exists, but I don't have one in my possession.

Q. Is it your understanding that the reliance materials contain everything that you have reviewed for this case?

A. All the relevant major things I've reviewed for the case. Clearly, I've reviewed things that aren't in the reliance materials simply because they were either repetative or weren't as significant as what we put into the reliance documents.

Q. When you say, what we put into, you mean who?

A. In reading over the materials provided to me, then I would suggest what I thought were the more relevant materials to be used as reliance materials, but obviously I reviewed many more documents than are in the reliance materials.

Q. You would suggest those to the attorneys for

Shook, Hardy & Bacon?

A. As I look at the -- for example, stories from the Cincinnati Post or Cincinnati Inquirer, I would indicate what I thought were the most important ones, based on, again, the relevant dates that I had already provided

http://legacy.library.ucsf.edu/tid/rnn05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

them.

Q. So my understanding then is your reliance materials contain all the documents that you consider to be relevant?

MR. PROCTOR: Object to the form.

THE WITNESS: No, not all of them, but the major ones. As I said, there are other documents that would be equally important but are just simply repetative.

BY MR. SMITH:

Q. All the information that you would be needing, in your judgment, would be contained within the reliance material?

MR. PROCTOR: Object to the form.

THE WITNESS: Again, my opinion or judgments would be based on a much broader sampling of the materials, including the secondary sources, so that I couldn't say that the reliance materials contained everything that went into making up my mind or judgment or opinion in this particular case.

BY MR. SMITH:

Q. Can you provide us with the other materials that you think were involved in that process?

A. What did you say, will I or did I?

Q. Can you?

MR. PROCTOR: Russ, as counsel, I will take that under advisement as to whether she will.

MR. SMITH: I'm asking her whether she can.

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Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

THE WITNESS: In terms of let's say additional articles from the Akron paper or from the Cleveland or Cincinnati papers?

BY MR. SMITH:

Q. Yes. If there are additional articles or anything. Anything -- I'm trying to find out what your opinion is based upon.

A. It's based on --

Q. And I'm just asking, I thought -- first I thought it was what was in your report and then I thought it was -- and this new reliance materials we've just received, and now if you're indicating that it's broader than that, I'm asking, you know, if you're able to get us that information.

A. Well, I'm assuming if you wanted references to all of the articles on tobacco from the Cincinnati Post or Cincinnati Inquirer or the Akron or Cleveland papers, that would be possible to provide that. But as I say, it would

be mostly repetitious or repetative of what you already have.

Q. That's what I'm asking.

Is the heart of what you're relying on in this case, material that's listed on this reliance materials list and in your report, in your opinion?

A. The major relevant documents are there and they are condensed then in my report into -- I mean, I've generalized in my report from these major relevant documents, but as I've indicated, other documents exist

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which would also lead to these same generalizations in the report.

MR. SMITH: I'd like to ask the court reporter if she -- and may I trouble you for your name, please?

(There was an attorney-reporter exchange.)

MR. SMITH: Laurie, if you would please mark Dr. Hoff's report as Plaintiff's Exhibit Hoff 1 or Plaintiff's Exhibit 1, Dr. Hoff, with the today's date on it, please, and then if you would mark the notes as 2.

MR. PROCTOR: Russ, what do you mean by the notes?

MR. SMITH: She referenced there was notes from the Tompkin depo that she had.

MR. PROCTOR: Okay.

MR. SMITH: The earlier report as 3, and the

reliance materials list as 4.

BY MR. SMITH:

Q. And I think, Dr. Hoff, does that cover what you have with you today?

A. Yes, it does.

(Off-the-record discussion was held.)

(Exhibits No. 1 through 4 were marked for identification.)

MR. PROCTOR: Russ, at least with regard to Exhibit 4, which is the reliance list --

MR. SMITH: Let's let her mark them first.

MR. PROCTOR: I think she has.

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Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

MR. SMITH: Are they marked, Laurie?
THE REPORTER: Yes, they are.
MR. SMITH: I'll tell you what, let me ask this, does the record show that Exhibit 1 is the report, Laurie?
THE REPORTER: Yes.
MR. SMITH: Exhibit 2 is a note from the Tompkin depo?
THE REPORTER: Yes.
MR. SMITH: Exhibit 3 is the earlier report?
THE REPORTER: Yes.
MR. SMITH: Exhibit 4 is the reliance report index?
THE REPORTER: Yes.

MR. SMITH: I'll tell what we might do is even though they'll be out of sequence, I was just brought a fax, why don't you put those together, I'm just trying to figure out a way to mark to -- why don't we staple the new ones together and mark it Exhibit 5, okay?
MR. PROCTOR: Before the court reporter does that. Russ, you mean the additional articles which were just faxed to you from the Akron Beacon Journal that are not yet included on the reliance list?
MR. SMITH: Yes.
MR. PROCTOR: Okay. And there are five pages. Does that match up with what you just received?
MR. SMITH: Yes.
MR. PROCTOR: Okay.
(Exhibit No. 5 was marked for identification.)

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MR. SMITH: And again, as we talked about in the other cases, I'm assuming there will be no communication with the witness during the course of the deposition, either verbally or nonverbally, is that okay?

MR. PROCTOR: Yeah, other than obviously to show her copies of documents that you've requested that she look at.

MR. SMITH: Although she ought to be able to find those herself, I would hope. Except for the ones in the box, I understand.

I'd like to mark -- is there three boxes of documents or two boxes there, Craig?

MR. PROCTOR: There are three boxes of reliance documents. I'm sorry. Somebody else's voice keeps coming in, if we could --

MR. SMITH: I don't know who that is.

MR. PROCTOR: Keep it on mute, please.

MR. SMITH: Pardon?

MR. PROCTOR: There are extra voices other than yours.

MR. SMITH: I agree. Whoever did it, it's corrected, I think.

MR. PROCTOR: Okay, Russ, go ahead, I'm sorry. Your request?

MR. SMITH: In the boxes of documents you're indicating, they're copies of what you sent us.

MR. PROCTOR: Yeah. There are an exact

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Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

duplicate of the documents that we sent you and they are an exact duplicate of each and every document contained on Exhibit 4, which is the 23-page reliance list.

MR. SMITH: Are they in the same order as the ones you sent us, to the best of your knowledge?

MR. PROCTOR: Yes.

MR. SMITH: Okay.

BY MR. SMITH:

Q. Dr. Hoff, when were you first contacted by anyone to work on the tobacco case, please?

A. It was back in 1994.

Q. And I guess before I get started down that road again, I want to just double check something.

We have now covered everything that you're aware of that you've reviewed in conjunction with these cases?

MR. PROCTOR: Object to the form.

THE WITNESS: We've covered everything including then material which obviously isn't present here today or that you don't have.

BY MR. SMITH:

Q. Yes. We've talked about that.

A. Yes.

Q. But we've covered it all; is that correct?

A. I believe so.

Q. Okay. In 1994, do you remember about when in 1994?

A. I really don't. I think it might have been in the spring or summer.

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Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

Q. And tell us about that, please.
A. I was simply called by an individual named Allen Purvis, who was at that time working out of Washington D.C., to ask if I would be interested in conducting some research on tobacco in terms of general

public perception of tobacco products and tobacco usage.
Q. And did he indicate why he wanted that information?
A. Yes. He indicated that it was in connection with tobacco cases or tobacco litigation.
Q. And you indicated what?
A. That I had some interest in it. I, at that time, had a friend who had contracted lung cancer and was in essence dying of it, and so tobacco and tobacco related problems were on my mind, but also he indicated that the law firm would be willing to pay some of my graduate students to do research in this field.
Q. Did they indicate they would pay you as well?
A. Yes.
Q. And they indicated they would pay what, approximately, as best you can recall?
A. For who?
MR. PROCTOR: Object to the form.
BY MR. SMITH:
Q. For you and the law students, you can separate them but I just want to get the picture.
A. You want specific amounts, is that it?

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Q. As best you remember.
A. I remember very clearly for the graduate students it was $25 an hour.

Q. And for yourself?
A. It was 125.
Q. And you indicated that you would do the work?
A. I said I'd think about it and talk to my graduate students. I had a number of students at Indiana at the time who were interested in social and cultural history and this topic fell into that category of history, and they were also at the end of their Ph.D. programs, where they were in need really of extra funding to simply finish up their dissertations. So it was a combination of factors that led me to contact them to see if they would be interested in this, knowing that it would help them out financially so they could finish their degrees.
Q. And then what happened?
A. Then we proceeded to do standard historical research on the subject.
Q. And what was that? What did you then do?
A. They began, as they would with any topic, reading the secondary literature, which I previously mentioned, and then looking for indications in mass publications, newspapers, national magazines, pamphlets of one kind or another, on the subject of tobacco. In this case, remember, we would have been looking initially at some major national newspapers like New York Times and L.A. Times, and then also we were looking very specifically at

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the Indiana scene -- Indianapolis Star and then anti-tobacco smoking organizations in Indiana because there were a number of them.

Q. And then what happened?

A. And then we just proceeded to collect this kind of what we call in the profession of history, aggregate data, to see what generalizations we could draw from that information.

Q. When you use the phrase aggregate data, you mean what, please?

A. It's a historical method whereby we collect information on any given topic from a variety of different sources and try, from that data, which is cumulative, obviously, to draw certain generalizations for a given topic or a given time period. It's a kind of standard historical approach or methodology. We tend to view ourselves as empirically oriented, as opposed to model driven. We don't impose models on information. We gather the information and then try to then determine what generalizations can be logically drawn from that type of information.

Q. You've used three phrases in that answer and I didn't want to interrupt you, but I'd like to go back to them a moment.

A. Okay.

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Q. You used the word accumulative.
A. Yeah.
Q. Would you tell us about that, please, that word?
A. If you're going to, for example, study a particular individual or a particular event, let's say a president or an event like the Civil War or a religious movement, you would, as a historian, go back to that time period to see first of all what, perhaps, statements were made by the individuals involved in the movement or by the President or what are the important events, for example, in a war like the Civil War, and begin then to accumulate this kind of information from documents, preferably from that time period. That is, we considered those to be primary documents.
But in addition, of course, you would read the secondary accounts of the event or of the person or of the movement and in that way you begin to accumulate what we call aggregate data on the subject.
Q. I'm going to ask you this, would that be, in lay language, would that be the same thing as getting the documents regarding the subject --
MR. PROCTOR: Object to the form.
BY MR. SMITH:
Q. -- or does it have a more scientific base than that?

MR. PROCTOR: Object to the form.

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Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

THE WITNESS: Well, I guess the former would be more accurate in terms of getting the documents. In other words, you gather the documents which appear to be relevant for -- which are relevant for the subject matter in the given time period.

BY MR. SMITH:

Q. Is that -- I don't want to step on your answer, are you through?

A. Yes.

Q. Okay. It's harder to tell that when I'm here.

A. All right.

Q. You use empirical, I believe.

A. Yes.

Q. Could you tell us how that fits in, please?

A. Well, in terms of the historical profession, we believe that our generalizations are based on the accumulation of facts and that is sometimes referred to as an empirical methodology where you're gathering facts to then try to determine or come to a certain generalization on the basis of those facts.

Empirical is often used to distinguish the history profession or the discipline of history from those disciplines in the social sciences, which as I said, are more model driven, where they come up with a model and

then attempt to find the facts of the documentation which then fit the model, and it's a major difference between the social sciences and methodology and methodology and

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history, which by and large most historians consider to be a field in the humanities.

Q. I'm not sure -- I'm not sure I understand.

A. Well, it's a difference between inductive and deductive thinking that you either have a generalization -- hypotheses, let's say, in science or in the social sciences and you decide -- and that becomes a model and then you try to prove whether that model is correct or you start at the other end and you gather facts to try to see what the generalization might be that comes out of those facts.

One is you start with the facts and try to generalize. The other would be that you start with a model and try to get the facts of the documentation to fit the model. One is deductive, the other is inductive.

Q. And the one where you have the model is which one?

A. Is deductive.

Q. In that process, does a scientist try to disprove the truth of the model?

MR. PROCTOR: Object to the form. Which process, Russ, deductive or inductive?

MR. SMITH: The scientific process. I guess

that's the deductive.

THE WITNESS: Yeah. In pure science, that is as opposed to the social sciences. I think the answer is both, they try to either prove or disprove. In other words, negative studies in science can be very significant. That is, if they have a model or hypotheses

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that prove ultimately to be incorrect, that's quite important for -- in the pure sciences. It's also generally important I think whenever you're using a model but it's particularly important for let's say Ph.D. dissertations in physics. It doesn't make any difference whether the model is proven correct or incorrect as long as it's proven to be something.

BY MR. SMITH:

Q. And that's the difference from the social sciences?

A. Well, the social sciences again use that same general model but it's harder to be as precise in the social science because you're dealing with human beings and not elements in a lab.

Q. Would you define the word model for me as you're using it?

A. Again, it would simply be in this sense I'm using it in terms of having a general hypotheses, or hypothesis or hypotheses, if you have more than one, that you are

attempting to prove to be correct or incorrect.

Q. And you're using it in conjunction with deductive reasoning and you're saying that in pure science the scientist would either try to prove that the hypothesis was true or the scientist would try to prove that the hypothesis was false.

A. Yes. And very often to do that you would device some kind of a structural model.

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Q. A structural model, is that the hypothesis?
A. It would contain a hypotheses, yes.
Q. And what else would it contain?
A. Mainly just the hypotheses that you're testing.
Q. And in history you use an inductive method?
A. We don't start with models, for the most part. What distinguishes us from pure scientist and to a large degree from social scientists, in that sense we tend to be slightly old fashioned, I think.
Q. But you use indicative reasoning.
A. Well, we try to come to our generalizations based on, as I said, this accumulation of facts of a data base and try to draw a generalization then from those facts, as opposed to imposing a model on those facts.
In other words, maybe this would make more sense to you, we don't -- we tend not to try to atomize the facts or documents we're gathering. We don't try to

single out those, for example, as a journalist might do to make a headline in the newspapers or get a story that would make headlines in the newspapers. We try to lump these facts together to see if we can draw some generalization from them. We don't simply look for a smoking gun in the facts to prove a point on the basis of a single document or one or two documents.
Q. But you use the inductive method.
A. Yes.
Q. And do you have some idea of the ultimate objective?

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A. Well, in terms of training Ph.D. students in the field of history, we encourage them to try to recognize as they begin to study any given subject matters, to recognize any individual or personal biases they may be bringing to that subject matter and to try to keep those biases to a minimum and to compensate for them whenever they can. In other words, we try to teach them to be as objective as possible in handling the material.

Q. Do you try to get -- withdraw that.

What type of material do you try to get?

A. Well, the materials we've been talking about. You would start with secondary monographs and general books on the subject and then you would try for as many primary documents as possible. That is, documents from the time

period you're studying, either produced by individuals or by groups of people, organizations, from that time period.

Q. And in this instance, in 1994, when you were contacted by Allen Purvis --

A. Yes.

Q. -- and you went back to him and said you folks would do it, I take it, would you do the work?

A. Yes.

Q. And you told him that about when?

A. Sometime in the spring or summer of '94.

Q. Did he tell you what he wanted you to do?

A. No. He generally said he wanted me and the graduate students to generally look at material on tobacco

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over time to determine basically the very general public image of tobacco that would have been conveyed to the average person or to readers of any given time period.

Initially it was quite broad because we went back to the 15th and 16th Centuries just to see what had been said or written about tobacco. But as we continued the research, it narrowed again then to the 20th Century and to the state of Indiana.

Q. And what did you folks do at that time?

A. At what time?

Q. After Mr. Purvis asked you to go forward with the project?

A. We just began this process of gathering this information.

Q. And you were gathering information, what was your definition of information?

A. These kinds of readings and books and primary documents.

Q. About what?

A. About tobacco.

Q. Is that what you were looking for, anything about tobacco?

A. Uh-huh, yes.

Q. And you looked to the sources that you've indicated to us.

A. Yes.

Q. Then what happened?

A. Well, I began to review some of the material from

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the graduate students and to begin to think about what kind of public image of tobacco had existed over time and my expert report indicated or indicates that the overwhelming impression of the documents was that it had had this almost uniquely negative image for several centuries.

Q. And then what did you do, please?

A. Again, simply refined the material to see if that generally negative image of tobacco had been conveyed to

the average reader in Indiana through the newspapers or through some of these anti-tobacco pamphlets or through other popularly distributed materials.

Q. When you say, negative image, you mean what, please?

A. That if you look at the way in which tobacco was discussed from the -- really from the late 15th Century forward, it is truly amazing how negatively it was perceived in western Europe, at least from Columbus' discovery of it, as he explored the new world.

Q. And what do you mean by, negative?

A. In the sense that it was quickly perceived by religious leaders, by heads of state, to be a nefarious product that negatively affected the individuals who used it.

Q. When you say nefarious, you mean what?

A. In the sense that as, for example, Russian Czars or English kings and queens viewed the smoking habit of

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the citizens of their nations, they began to publicly state that it had a harmful impact on these individuals in these nations.

Q. And the harmful impact was what?

A. Well, it varied. Very often it was health related. Very early on it was considered habit forming and, generally speaking, prominent individuals in western

Europe began by the late, oh, late 16th, early 17th Centuries to publicly criticize smoking or the use of tobacco products in general.

Q. We're talking about in the 16th Century?

A. As I said, late 16th and then early 17th is when you have some of the pronouncements coming out of England.

Q. Is that when they were saying it was habit forming?

A. Yeah, from the very beginning you find statements to that affect, yes.

Q. Did they say what they based that on?

A. Simply that the observation, very often this would be of people who would be working who would be more lethargic, it was thought, or less intelligent, it was often thought, because of the fact that they were smoking or using tobacco products in one way or another.

Q. And your goal was -- in this search for information, did you try to find out what the tobacco companies information was?

A. Well, initially you wouldn't have had many tobacco companies in that time period.

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Q. As time wore on, did you try to do that?
A. Not really because we were trying to determine the public image of tobacco as perceived by the average person so that that wasn't a major source of information for our

overall project.
Q. Did that ever arouse your curiosity?
A. As an individual, it did in the -- because of the publicity that the tobacco industry was receiving in the 1990s.
Q. Did you ever try to ascertain what the tobacco companies knew?
MR. PROCTOR: Object to the form.
THE WITNESS: There was no reason for me to because I was trying to determine again what the public image of tobacco was available to the average person.
BY MR. SMITH:
Q. I think you indicated it did arouse your curiosity.
A. As an individual I think any reading person of the 1990s would have had an interest in the issue, given some of the headlines which were appearing in the newspapers.
Q. Did you ever smoke?
A. No.
Q. Let me just back up a minute here.
You grew up where, please?
A. I grew up in Butte, Montana, about 90 miles from here.

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Q. And it's called Crook?
A. Butte, B-U-T-T-E.

Q. Forgive me, I apologize.
A. That's okay. There is no reason you should know it.
Q. Are you in the northwestern part of Montana?
A. Kind of southwestern.
Q. Southwestern?
A. Uh-huh.
Q. And you went to high school there?
A. Yes.
Q. Do you have brothers and sisters?
A. I have one brother.
Q. The types of things that you liked in high school and school?
A. Well, in high school I was originally in science, primarily, and when I started college was initially majored in science but I switched fairly quickly over to the humanities.
Q. And did you have any extracurricular activities in high school?
A. Yes, I belonged to the science club or the photography club. I was a -- I hate to admit it now, but a baton twirler. It was a very in thing to be doing in Butte, Montana in the 1950s.
Q. I'm beginning to think it would be good to come back as a cheerleader, but I don't know.

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A. Depends on where you are today.
Q. When you were in high school, did you have any part-time jobs?
A. I actually worked in a department store for a while and during the summers. It was hard for girls in that time period to obtain jobs.
Q. And then you went to college where?
A. Missoula, the University of Montana, at Missoula.
Q. Let me get your -- Missoula is where the jump school is, right?
A. Where the what school is?
Q. The jump school.
A. Oh, yeah. You mean the fire fighters.
Q. That's right, it's Missoula.
A. Yeah, and you can get a Ph.D. in forestry at Missoula.
Q. I worked a summer in Coeur'd Alene at West Camp, I remember that in Missoula. Those are the people that -- they were the fire fighters that jumped.
A. True.
Q. You went to school -- so you went to school up there from when to when?
A. In the '50s, I was at Missoula getting a B.A. and then I went to Cornell initially for an M.A.
Q. And your B.A., I'm struggling right -- I had your

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CV and I'm trying to get back to it. Here it is, resume' for Joan Hoff.

A. You got it.

Q. October of '99, okay.

A. Uh-huh. You should have a more updated one.

Q. I don't think I do.

A. Okay.

Q. The one that I have is October '99.

A. That will do.

Q. And it says --

MR. SMITH: But I guess I would ask if you folks would get me the updated version, please. Would that be okay? If there is one. Is there a later one?

MR. PROCTOR: Yes. Russ, this is Craig. There is a copy of the updated one in the materials we sent you and we also have one here today.

MR. SMITH: You mean in the box?

MR. PROCTOR: Yes.

MR. SMITH: The stuff I just recently got.

MR. PROCTOR: I know that at least as early as the box you just got and perhaps earlier is the updated one. It's dated June of 2001 and we also have a copy with us here.

BY MR. SMITH:

Q. You had a double major in Montana.

A. Yes.

Q. In European history and journalism.

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A. Uh-huh.
Q. And you went to school in France for a year?
A. That's true.
Q. While you were at the University of Montana, did you engage in any extracurricular activities?
A. Mainly, obviously, I edited -- I worked on the school newspaper and then I edited the literary magazine at the university.
Q. Did you work at all while you were in school?
A. I again worked part-time jobs in the summer, when I could get them. I worked at a radio station in Missoula one summer. While I was on part scholarship, I did have to try to support myself.
Q. What did you do in the radio station, please?
A. I wrote ads.
Q. What type of ads?
A. For agricultural equipment. I inherited the job from a fellow who had it before me.
Q. How did you wind up getting it?
A. Because he left and I was there.
Q. How long were you involved in writing ads?
A. Just one summer.
Q. What's your thought as to the effectiveness of

ads?
MR. PROCTOR: Object to the form.
THE WITNESS: I really didn't have much thought about it at all. It was a summer job. I had to play

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catch up to learn about agricultural equipment and direct-drive chain saws and I really didn't have any impression of the effectiveness.

BY MR. SMITH:

Q. Since that time, have you thought about it?

A. Oh, not in any serious way. I mean, we're subjected to ads all the time. I think we become kind of inured to them over time.

Q. Do you think they're a waste of money for the people advertising?

MR. PROCTOR: Russ, I object to the form. It's well beyond the scope of her expertise, but if you want to continue asking her questions based upon her own personal speculation, that's fine.

MR. SMITH: I won't agree to your characterization, but I would ask the question.

THE WITNESS: Yeah, I only have a personal opinion on it. I don't have any expert opinion on the effectiveness of ads.

BY MR. SMITH:

Q. Upon the human mind?

A. No. I personally find them irritants, but I don't think that has anything do with my expert opinion.

Q. You then went to school in France?

A. Yes.

Q. Was that working towards your master's program?

A. No. I already had the master's program from Cornell.

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Q. Oh, you did?
A. Yes.
Q. You just thought it was a good idea to go to school in France?
A. Well, it was a way for me to get abroad, which I wouldn't have been able to do on my own, and since I had majored in Slovic history, there was an interesting project that I was pursuing coming out of my master's thesis that could only be researched actually at the University of Strassburg in France.
Q. What was that topic?
A. It was --
Q. Public history?
A. Yeah, Russian history, it was on Alexander the Second. At Missoula, at the time, they had a highly developed program in the Russian language and Russian history, and one of the professors there, before I left Missoula, indicated to me that there was a collection of

documents in Strassburg that related to some of the public policies of Alexander the Second.
Q. Sounds like a good thing to do to me.
A. Well, quite frankly, it's the way in which you obtain these kinds of fellowships. You do have to have a specific project.
Q. And then you went to Berkley.
A. Yes.
Q. I take that back. You went to Northwestern first.

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A. Very briefly, and I had a fellowship to Northwestern but it proved not to be enough money to support me in that Chicago area. It was simply too expensive an area to live in.
Q. And so then you went to Berkley.
A. Yes.
Q. Did you get a scholarship there?
A. Yes. I had a TA-ship, a teaching assistantship. At the time Berkley probably paid the best in the country in terms of the public institutions offering teaching assistantships.
Q. So you graduated from there in 1966.
Have you been teaching ever since?
A. Yeah. And, of course, I was teaching while I was there as a teaching assistant.
Q. I believe you indicated you have never smoked.

A. No, I have not.
Q. Did your parents ever smoke?
A. No, they didn't.
Q. What kind of work did your dad do and your mom?
A. They're both dead, but my father first worked in the mines in Butte, in the copper mines, and then because of, as he told me at least, the strikes and the depression of the 1930s, he became a mechanic and then simply worked as a mechanic in his own garage from about 1938 on.
Q. And your mom, your mother?
A. She didn't work outside the home.
Q. Did either of them ever smoke?

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A. No, they didn't.

Q. Do you have brothers or sisters?

A. I have one brother.

Q. Did he ever smoke?

A. Yes, he did.

Q. Very long?

A. Oh, I think maybe he smoked for a good dozen years, maybe 15 years.

Q. And he quit?

A. Yes, he did.

Q. Is he still alive?

A. Yes.

Q. Have you been married?

A. Yes.

Q. And are you married now?

A. No.

Q. Any children?

A. No.

Q. I couldn't hear that on the mike, I'm sorry.

A. No.

Q. Did your husband smoke?

A. Yes, he did.

Q. For about how long?

A. Again, he smoked, again, for a good 10 or 12 years, I think.

Q. And is your husband alive?

A. Yes, he is.

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Q. And then you had a good friend that died of lung cancer, is my understanding.

A. Yes, in 1995.

Q. I'm going to jump off with a question, speaking of Missoula.

You graduated from Berkley, which I envision as a fairly liberal school, in general.

A. Well, it certainly was when I was there.

Q. And I'd like -- when you wrote the article or the paper, Watergate Revisited.

A. Yes.

Q. How did you come down on that, if I may ask?

A. When I wrote the book, are you talking about the book on Nixon Revisited?

Q. Maybe that's a chapter in there. Maybe it was a talk: Watergate Revisited, Lawrence Brewster Lecture in History, East Carolina University.

A. That's right, yes.

Q. How did you come down on Watergate?

A. Very negatively. I thought ultimately that the documents showed that indeed President Nixon did obstruct justice.

Q. You wrote quite a bit on Nixon.

A. Yes, I have.

Q. May I ask you why?

A. I have written previously on President Herbert Hoover.

Q. I noticed that.

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A. Yes. And as a result of that book, which was fairly well received, I was asked by a publishing company to write another biography of a president, and I was offered, this was in the late '70s, a choice of President Johnson or President Nixon, and I chose to write on Nixon.

Q. May I ask you why that?

A. I thought it would be a more challenging and interesting project than writing on Johnson. It seemed to

me that it was easier to explain Johnson's earlier political career and then his later career as president, and of course his fall from grace due to the war in Vietnam, than it was to account for Nixon in those same terms. You never want to chose a topic that will bore you.

Q. I believe you.

You've written also on women's issues; is that true?

A. Yes.

Q. Can you give me a thrust of it?

A. Well, again, as with so many things in an academic career, many things are fortuitous. I had come out of Berkley in the 1960s and the bicentennial of the American revolution was coming up in 1976, and I was asked to write an article on the impact of the American revolution on American women. And I had by that time established a women's studies program at Sacramento State and had been engaging in research on women in a very general sense, and

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since I had been at Berkley during the time of the various movements going on there in the '60s, I thought it would be an interesting topic. In fact, I thought that I could go back to the American revolutionary period and find women being revolutionary, that is, being radical, being very much engaged in the events that brought about the

American revolution. So I said, yes, and began to do research in the colonial period.

Q. That's been probably a fascinating search.

A. Well, it was a very disappointing search because it turned out that there were no women radicals during the American revolution.

Q. Really?

A. It was a negative result in this case. The documents simply didn't prove what I had hoped they would. Yes, so I wrote this article, which was very controversial saying, in effect, that the American revolution had a negative impact on American woman. And as I said, it was disputed at the time but now that article has been reprinted everywhere and for the most part is now considered correct. But I suffered for a couple of years because it was considered terribly incorrect by colonial specialists.

Q. Was that that the leaders of the revolution dealt the women out?

A. Yep, they did. They always do. It isn't just this country.

Q. There's a lot of women judges now.

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A. This is a different time period.
Q. You wrote on President Clinton as well, a little bit.

A. A little bit, because I did the two previous presidents, Hoover and Nixon, I then gained a reputation as a presidential scholar, and so in the '80s and '90s would be asked to comment on presidents.
Q. Okay. I appreciate that.
Let's see, we were in 1994, and maybe a little past there, but in that general zone and you had done work at the request of Allen Purvis.
A. Yes.
Q. What happened next?
A. I then simply went forward with a few cases that are cited in the expert report.
Q. Were many of those -- withdraw that.
Is that report pretty similar to the one you did in that case?
A. You mean in the Rogers case?
Q. Yes. Was that the Rogers case that you worked on at Allen Purvis' request?
A. Yes.
Q. Was the report similar? I guess I would ask that for openers.
A. In the general sense of the negative image that goes back in time. Each report, however, that I've given is usually state specific as well.

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Q. And what have you done to make them state

specific?
A. To look at these state documents.
Q. That you've referred to in this case like the Beacon Journal and the Cincinnati newspaper and things of that type?
A. Uh-huh, yes.
Q. And you've done how many reports approximately?
A. I would have done one for each case, which would mean three.
Q. Three cases?
A. Uh-huh.
Q. Incidentally, there was on your report at Page 19.
A. Yes.
Q. It's in the process of stating three cases but the third one was cutoff, what I received.
A. Yeah.
MR. PROCTOR: Russ, this is Craig, and we recognized that and we sent you, I believe, a letter or something of some sort that indicated there was one additional case that got cutoff and that was the Whitely case in California.
MR. SMITH: Would you mind -- withdraw that.
How long ago was that approximately that you sent the letter, would you guess?

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MR. PROCTOR: We'll see if we have a copy of it, Russ.

MR. SMITH: Okay. I'd appreciate it. Maybe you could send me another one.

MR. PROCTOR: It was this week, Russ.

MR. SMITH: Oh, was it?

MR. PROCTOR: Yes.

MR. SMITH: We've all been around the --

MR. PROCTOR: I understand, but Dr. Hoff can correct me but I believe it's Rogers, Dunn and Whitely.

MR. SMITH: You don't know the case number offhand, I'm sure. If you all can get me that, I'd appreciate it.

MR. PROCTOR: You'd like the civil action number and the precise location of the Court, right?

MR. SMITH: Yes, sir.

MR. PROCTOR: Yeah, we'll get you that.

BY MR. SMITH:

Q. I'd also ask, Dr. Hoff, if I could have copies of your three reports or the reports for these these three cases?

MR. PROCTOR: I'll take that under consideration, as counsel.

BY MR. SMITH:

Q. And were you deposed in any of those cases?

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A. Was I deposed?

Q. Yes, ma'am.

A. Yes, in two of them.

Q. And those would have been which ones, please?

A. I think the Rogers and the -- no, it would not have been, I think it was Dunn and Whitely.

Q. You testified at trial?

A. Yes, I did.

Q. The question is, in all three of them?

A. Yes, but I wasn't deposed in all three.

Q. Okay. You were deposed in Dunn and Whitely, you think?

A. Yes, I know Whitely for sure, and I think the other was Dunn.

Q. And you think you testified live in all three cases, appeared?

A. Yes.

Q. I'm not sure the Dunn versus Nabisco case, Nabisco, okay, that was in Indiana, I follow you. Indiana Superior Court. Oh, so the first two or maybe the last two, I guess, were in Indiana.

A. Yes. Well, the first two, I think they would have been.

Q. And then this Rogers, we have a Rogers case, the Dunn case.

The Whitely case would have been where then?

A. In California.

Q. In California, okay.

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That was approximately when?
A. That was in 1999.
Q. When you had accumulated the data and then you prepared a report that you provided to Attorney Purvis; is that correct?
A. I think it went to him. I'm not absolutely sure the first report, but I believe it did.
Q. Did it go to Shook, Hardy & Bacon?
A. He was representing them out of that Washington office.
Q. You're somewhere -- you believe it went to Shook, Hardy & Bacon?
MR. PROCTOR: Russ, just for clarification, are we talking about the Rogers case or this case?
MR. SMITH: The first one.
MR. PROCTOR: Okay, Rogers, thank you.
BY MR. SMITH:
Q. And then all three of your reports went to Shook, Hardy & Bacon, as far as you know.
A. Yes, they have gone there.
Q. And the client involved in all three cases would have been whom? And if it was different I'm assuming --

or just whoever the client was, please.
A. What do you mean?
Q. Who was the tobacco company involved, as you understood it?
A. Well, there are several in each of the cases.

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Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

Q. Well, let me ask you, on this case, who do you understand the tobacco company to be that is being represented by Shook, Hardy & Bacon, the tobacco company or companies?

MR. PROCTOR: Objection to the form.

THE WITNESS: Well, Philip Morris.

BY MR. SMITH:

Q. Is one of them, as far as you believe, your best belief?

A. Yeah.

Q. And the other two cases, do you believe was it your best belief that Shook, Hardy & Bacon was representing Philip Morris?

A. Yes, and conceivably another company as well, but Philip Morris was the one that I believe they were representing, primarily.

Q. Does the report that you provided that is marked as Exhibit 1, does that contain the opinion that you intend on expressing in this case as far as you understand it?

A. Yes.

Q. And does the report contain the basis and the support for those opinions that you intend on expressing, to the best of your knowledge?

A. Yes. It contains major references to those conclusions.

Q. Contains the major support for them, would that be true?

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A. Yes. In a very general sense. It's condensed, obviously, as we talked about before.

MR. SMITH: Now for the record, I will object to anything that we received since the report.

BY MR. SMITH:

Q. Having said that, the material that we've received this week that we've also received this morning, the reliance materials list, which is marked Exhibit 4, and the additional, I believe, five sheets, could be four but I think it's five, that are marked Exhibit 5, these are additional materials that serve as a background for your report.

Is that a fair assessment or statement?

A. I'm not quite sure what you mean by additional. They're called from a broader collection of documents.

Q. They also provide some support for your opinions in this case.

A. Yes, they do.

MR. PROCTOR: Just so the record is clear on that, Russ, we do have a copy of every one of those documents here today. You have a copy of every one of those documents in your office and Dr. Hoff is here, ready, willing, and able to discuss any one of those specific documents with you here today.

MR. SMITH: It sounds pretty easy, there's only about -- how many are there, about 400? I believe Clarence Darrow could do it.

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MR. PROCTOR: Easier task than I had discussing Dr. Blum's (phonetic) tardy documents.

MR. SMITH: I have to confess, I need a break to figure out how to tackle 398 documents for our deposition that I just received this week.

MR. PROCTOR: You're more than welcome to try right now.

BY MR. SMITH:

Q. Dr. Hoff, have you ever published anything on tobacco, other than your reports in this case?

A. No, I have not.

Q. Your current rate of compensation in this case would be what?

A. $125 an hour.

Q. You've been paid total in tobacco about how much

so far, best estimate?

A. You mean since 1994, over the last seven years?

Q. Yes, ma'am.

A. Around 35- to 36,000.

Q. Did you do any research projects or litigation projects of any kind for anyone else, other than tobacco?

A. I've done one in connection with the civil suit involving Nixon papers.

Q. Really?

A. Well, it also, I think, is referenced in the expert report.

Q. Let me take a look at that, please.

Can you guide me to where it would have been?

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Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

A. It would be probably on that missing page following the Whitely case. It's Griffin and Taylor versus the United States.

Q. Is there anything else on that page?

A. Not that -- I actually don't have the page in front of me, but I think that's all. It just lists the cases I've been involved in. That had nothing do with tobacco.

Q. Your original report, did Shook, Hardy & Bacon assist you in at least in formatting your report?

A. You mean back in 1998?

Q. I thought it was '94 but whenever the -- I mean

the first report you did on tobacco.

MR. PROCTOR: Just an objection, Russ. Are you talking about the Rogers report?

MR. SMITH: Whichever one was the first one. I guess that was it.

MR. PROCTOR: As opposed to Exhibit No. 3 in this case which is her original Tompkin affidavit?

MR. SMITH: Yes, sir.

MR. PROCTOR: Okay, go ahead.

THE WITNESS: I put together the original Rogers report.

BY MR. SMITH:

Q. When you say you put it together, would you go further on that for me?

A. I simply wrote it as an expert witness indicating

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what I had discovered about the public image of tobacco over time.

Q. They didn't give you any assistance on formatting or anything like that?

A. Not initially. After I submitted it we discussed it and certain sections were too long or whatever or whatever, whatever, but basically I put it together on the basis of my findings.

Q. So you wrote the first report, met with them, and then there were some changes that were made to it insofar

as you mentioned some parts were too long or what have you.

A. Yes.

Q. Do you have the very first report you prepared and sent to them?

A. I don't have it here. I might have it somewhere in my files.

MR. SMITH: I would ask for that.

MR. PROCTOR: As counsel, we'll take that under advisement.

MR. SMITH: You'll get back to me, will you, sir?

MR. PROCTOR: Yes.

BY MR. SMITH:

Q. In this case, did that occur? And by, that occur, did you prepare the initial report, meet with them, and was there some modifications?

A. Well, again, back in 1998 I prepared this first

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report obviously using the format that I was familiar with
and had been developed from the earlier cases.
Q. Do you recall whether your first draft became the
affidavit or whether there was more than one draft?
A. I would think on most of these, there would be
more than one draft but, you know, how many, at the most,
maybe two drafts, three drafts, at tops, I think.

Q. Again, do you have any of the other drafts with
you today?
A. No. I have the original one from 1998 or the
final one, which was submitted.
Q. The affidavit?
A. Yes.
MR. SMITH: Okay. I'd ask for these other
drafts, same request I made regarding '94, Craig.
MR. PROCTOR: Right. I'm not sure if you asked
her or if she physically possesses them though, Russ,
whether they even exist.
MR. SMITH: I will, if I didn't.
BY MR. SMITH:
Q. Do you physically possess them, Dr. Hoff?
A. I'm not sure I do at this point.
Q. Do you think Shook, Hardy & Bacon might possess
them?
A. I couldn't say.
MR. SMITH: I'd ask for them, whoever possesses
them.

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BY MR. SMITH:

Q. You were talking about the Nixon tapes; is that right?

A. I have discussed the Nixon tapes but I don't exclusively do the Nixon tapes.

Q. No, no, I apologize. I made a big mistake.

You were involved in something else that had litigation.

A. Oh, that was the Nixon papers and it included the tapes in terms of this civil suit to determine the value of the papers. After his death the family or the executors of the estate were claiming that they were due a settlement with respect to the papers which had been confiscated in 1974.

Q. And your role in that would have been what, please?

A. I testified on behalf of the Nixon estate.

Q. As to what issue?

A. As to the value of the papers.

Q. You came up with an opinion as to the value?

A. Not a monetary value, but that the papers were historically valuable and it was left to other experts to determine the monetary value.

Q. Where did you testify?

A. In Washington D.C.

Q. I bet that was interesting.

A. It was really very interesting, I must confess, because of the setting and simply because of the issue.

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MR. McLAUGHLIN: Russ?

MR. SMITH: Yes, sir.

MR. McLAUGHLIN: When it's convenient for you, can we break for a few minutes? I apologize. I've got to exit this conference room and move to another room.

MR. SMITH: Sure. Is five minutes good with everyone?

MR. McLAUGHLIN: Is that acceptable if we can take a five-minute break?

(There was a short break taken.)

BY MR. SMITH:

Q. Your major opinion in this case, Dr. Hoff, would be what?

MR. PROCTOR: Object to the form.

THE WITNESS: In very general terms, the report reiterates the negative public image of tobacco over time and then concentrates on the state of Ohio in terms of how publications in that state reflected that negative image.

BY MR. SMITH:

Q. And I think and it's my belief that I'm operating under, is that Page 19 of your report contains your opinions.

MR. PROCTOR: Object to the form.

BY MR. SMITH:

Q. Is that correct, Dr. Hoff?

A. It summarizes them on that page, with the exception of maybe No. 6, which is somewhat open-ended.

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Q. I'm basing that, I guess, on what is at the bottom of Page 18.

A. Okay, yeah, I see that, yes.

Q. I wasn't trying to ask you a trick question but I was trying to focus it.

A. Uh-huh.

Q. Am I correct in assuming that Page 19 does contain your opinions?

A. Yes.

Q. And on opinion No. 1 --

A. Yes.

Q. -- when you say, ordinary consumers, you mean what?

A. Those who would be buying tobacco products.

Q. When you say, inherent health risks, you mean what?

A. That they would have been subjected to information that linked use of tobacco with health risks.

Q. And when you use the word, smoking, you mean what?

MR. PROCTOR: Objection. Russ, do you mean in Paragraph 1?

MR. SMITH: Yes, sir.

MR. PROCTOR: The last word?

MR. SMITH: Yes, sir.

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MR. PROCTOR: Thank you.
THE WITNESS: It would be referring fairly specifically to smoking tobacco products but cigarettes was the focus of the study.
BY MR. SMITH:
Q. When you use the term, smoking, does that mean one cigarette or more than one?
A. It would obviously be more than one.
Q. Do you have any -- was there an amount that you had in mind when you used the word smoking in 1?
A. No.
Q. No. 2, there's a new phrase, habituating nature.
A. Yes.
Q. I guess you go on to say what you mean by that following the dash; is that correct?
A. Yes, I do.
Q. You use the phrase in No. 5, common knowledge.
A. Yes.
Q. And when you use that phrase, you mean what, please?
A. It's a term used by historians generally to mean the lowest level of information that a society conveys to its citizens on a given topic or subject.
Q. When you say, lowest level, you mean what, please?
A. I mean the kind of information that we grow up

with and garner from our parents or relatives and then

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sometimes have reinforcements by the school systems about how to behave in society and that the dangers or values of the society seem to be in any time period.

Q. You speak of dangers, are you referring to -- withdraw that.

Can you flush out what you just said for me any further?

A. Well, you could look back on Page 4 of the report.

Q. Okay, that would be fine.

A. Yeah, or I guess it really begins on the last paragraph on 3.

Q. Refer to the third sentence: Deeply ingrained -- and then you have in quotes, awareness.

A. Yeah.

Q. When you use the term awareness, in quotes, what do you mean, please?

A. Simply that what the average person might perceive of a given topic or in this case of a given product, in terms of this very general low level of information that's being conveyed by the society.

Q. If it were a high level event, what would you mean? The difference between low level and high level, if you can help me understand that.

A. I'm not sure I know exactly what you mean. What

common knowledge embodies is a kind of passive awareness of an event or a topic or a product that is passed on first usually orally and then, as I said, through -- sometimes through the educational system and then

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obviously through popular media, to citizens of any society. And common knowledge is that level of awareness that is most commonly shared by individuals and it means a very low level of awareness in that the individual isn't usually seeking out in any active way to learn more about the subject than he or she is being presented with in the popular media.

Q. You distinguish general awareness from deep-seated belief.

A. I would, yes.

Q. Okay. You make a statement on Page 4 that intrigued me. On the first full paragraph --

A. Yes.

Q. -- second sentence.

A. Another interesting feature?

Q. You make a statement: Sometimes common knowledge is ahead and sometimes behind scientific information in any time period.

A. Yes.

Q. Would you tell me what you mean by that, please?

A. It's most simply put, is that common knowledge, in

the case of tobacco, for example, was basically a negative type of knowledge that people were obtaining from popular presentations of tobacco over time. And in this instance it wasn't until the late 1930s and '40s and then into the '50s that scientific information began to substantiate the negative health hazards of tobacco which had been

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prevalent in this popular literature for several centuries.

Q. The other area that I'd like to go to, the other area would be on Page 3 of your report on the second full paragraph, fifth line.

A. Okay.

Q. You use the phrase: Traditional and nontraditional sources.

A. Yes.

Q. When you say, traditional sources, you mean what, please?

A. Well, the field of history is changed in some dramatic ways in the last 30 years and traditionally or conventionally what historians did was simply to study, very often, official documents, the exchange of letters between famous people, government documents of one kind or another or statements, public statements by prominent individuals.

But in this last 30-year period with the

development of the new social and cultural history, so-called nontraditional sources were looked at simply to try to determine what the average person in any time period either thought or more particularly how they lived in a particular time period. So that to do that, you couldn't use these official documents, government documents or statements by prominent people. You had to look at, for example, what the average person might be reading or sometimes singing or what the humor of the

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period was as it was reflected in cartoons of the day, initially, or as humor is reflected today, for example, in other forms of mass media, television and movies.

Q. Those would be considered nontraditional?

A. Initially, yes, because we wouldn't have used those kinds of documents to study prominent individuals and until this new social and cultural history came into vogue in the last 30 years, the concentration by most historians was on a few very powerful, prestigious individuals and very important events like wars or depressions.

Q. On Page 2 you preference the Brookings Institute.

A. In relation to myself?

Q. Yes. As far as getting a grant.

A. Oh, yes, uh-huh.

Q. Tell me about that.

A. Brookings simply offers you office space, usually just office space, that you can use if you have another fellowship that brings you to Washington D.C. for research, and I happen to have had a Guggenheim during the time I spent at the Brookings Institute.

Q. You were at the Brookings Institute about when to when?

A. I was there in the early '80s when I had the Guggenheim fellow -- I had several fellowships in the early '80s, one at the Woodrow Wilson Center for International Fellows and I had an NEH grant, and then a

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Guggenheim fellowship, so that I was doing fairly serious independent research on a couple of topics in the early '80s in Washington D.C., and simply applied to Brookings for an office to carry out that research.

Q. On Page 3, second full paragraph --

A. Uh-huh.

Q. -- fifth line from the bottom of that paragraph starts out: Newspapers (comma), court and church records.

A. Yes.

Q. You use the phrase, court records, you mean what?

A. Well, for my own research, it would have included for the colonial period, probate records, diary records of individual women, marriage records which would have been

recorded by the Courts, sometimes if the church records didn't contain birth dates of children you could find them in the Court records. Those kinds of documents that would indicate facts and figures about everyday life of these average individuals, in this case, for the colonial period.

Q. Incidentally, are you still the director of the Contemporary History Institute and Ohio University?

A. No, I'm not.

Q. How long were you a director?

A. For two years and then last year I was at the College of William & Mary.

Q. But somebody else had taken over that job after you left?

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A. Yeah, they had appointed an interim director and they've appointed another interim director I think as of this month or last month.

Q. What is that, the Contemporary History Institute?

A. Well, it's -- I don't know quite how to describe it. It's an interdisciplinary program, I think that's the best way to put it. On the campus, which was originated in the mid 1980s by a professor named John Gaddis to train Ph.D. students, primarily Ph.D. students in history, but to make sure that they received an interdisciplinary education so that they understood contemporary economics,

they understood a little bit about sociology, understood some political science theories, in order to train these Ph.D. students in history for jobs in other than teaching, because there's been a glut on the market of Ph.D. students with respect to teaching positions in this country for some time.

And John Gaddis came up with the idea that what Ohio University should do is to specialize in the training of Ph.D. students in contemporary history, meaning public policy, to a large degree, so that they could then go from the university into jobs, other than teaching, but also, of course, they would be well qualified to teach as well.

So it's the basis right now for the Ph.D. program in history at Ohio University, without the Contemporary Institute, there would be no Ph.D. program at Ohio.

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Q. Thank you.

On Page 16, top line.

A. Uh-huh, yes.

Q. Where did you obtain the 97 percent figure?

A. That's from senior scholastics. It was again one of the sources I looked at from the very beginning of this research into attitudes toward smoking because it was such a, oh, important and significant, that is, the magazine was, teaching tool in most high schools of the '40s,'50s,

and '60s.

Q. Okay. And that's Footnote 46?

A. Yeah.

Q. When you drop down to the second -- I guess before then, the second half of that paragraph.

A. Uh-huh.

Q. The statements by tobacco companies, you're making that statement based on what?

A. Again, the broad research I did into newspapers, both national newspapers and then state or regional newspapers.

Q. When we go down to the next paragraph, the American Medical Association letter.

A. Yes.

Q. Did you do any historical studies as, oh, as to the background of that letter?

A. I'm not quite sure what you mean by historical studies. I came across it as I did statements, for example, by surgeon generals of the United States with

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Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

respect to cigarettes, and I'm not so sure that that was probably since it's a '64 statement, it shows up in a number of congressional hearings and in other secondary literature on the subject of tobacco.

Q. To a historian, would the historical backdrop of that letter be of interest?

A. It might be if I were looking for something other than a statement from a professional organization about what it thought constituted common knowledge on tobacco. But I was looking, quite frankly, for references to common knowledge in a lot of these sources and this was one of the more relevant or dramatic ones.

Q. The AMA letter?

A. Yes.

Q. Would it be of intellectual interest to you as a historian if shortly before that letter was sent if there was a very substantial financial commitment between tobacco and AMA?

MR. PROCTOR: Object to the form.

BY MR. SMITH:

Q. Would that at least raise some curiosity to you as a historian?

A. I think if you look at the letter or if you look at the accounts of the letter in congressional hearings, that fact is noted.

Q. You're aware of that then.

A. Yes, I was, and I am.

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Q. Was that a million dollars or more?
A. I think it was more.
Q. And did that arouse your curiosity?
A. Well, by 1964 it really didn't because of the fact

that, again, in the secondary literature, there's a good deal of reference to research being financed by the tobacco industry, and the AMA would have been a logical recipient of some of that research money, as were individual doctors, you know, across the country.
Q. 1964?
A. That's the significance of the letter for my research was that this is when Congress was discussing whether or not to have warning labels on cigarette packages, so I was looking at public statements to see which groups or which individuals would have supported those warnings and which did not. And the AMA was one which did not because it thought, as you can see in that quote, that this question of the health hazards of smoking had been so well publicized for the previous ten years.
Q. And it also had received -- it was also a tremendous financial event that occurred between it and tobacco, correct?
MR. PROCTOR: Object to the form.
BY MR. SMITH:
Q. That is the fact though, you do agree to that.
A. Well, I'm not sure I agree to your wording of it. In this particular letter or at the same time that this quotation was made public in the hearings, there had been

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a grant made to the AMA.

Q. And at least was something worthy of being noted by yourself, true?

A. Well, I noted it, yes.

Q. You wouldn't turn a blind eye to something like that occurring coincidental with the letter that's typed. That, I'm sure.

A. If you're asking if I'm drawing a kind of conclusion that the statement was based on the grant, that is not correct.

Q. No. I'm just asking that the question had to go through your mind as to whether or not there was any kind of an impact by the grant.

A. I noted it, that's about all I can say.

Q. Did you, Dr. Hoff, ever try to determine how many ads had appeared in newspapers, magazines, print media, involving tobacco? Did you ever make an effort to determine that?

MR. PROCTOR: Objection to the form.

Do you have a time frame, Russ?

BY MR. SMITH:

Q. At any time. Any time prior to 1965.

A. You mean in a statistical sense?

Q. A numerical sense.

A. Yes.

Q. I'm not sure and we may be saying the same words,

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I mean, the same thing.
Is that what you mean by statistical?
A. Yeah. Would I have counted the number of ads?
Q. Or tried to get an approximation of them.
A. No, I did not.
Q. And did you ever try to get an approximation of the number of TV commercials involving tobacco, prior to 1965?
A. No.
Q. Or radio?
A. No. In that case, you're asking a question that would almost be beyond most research, that is the radio ads would be very difficult to track down.
Q. Have you a view, Dr. Hoff, as to whether or not manufactures should warrant dangers in their products? Any views on that one way or the other or not?
MR. PROCTOR: Object to the form. Beyond the scope of her expert testimony, but she can express her own opinion if she has one.
THE WITNESS: No, I really don't.
BY MR. SMITH:
Q. What is the Contemporary Institute?
A. I just answered that. I could repeat it.
Q. I would be grateful, I'm sorry. No, I apologize, you do not need to repeat it. I apologize for troubling

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you with it. That's the basis for the doctors program at Ohio University.
A. In history, yes.
Q. Yes, ma'am.
A. Since you seem to know something about Ohio, you might know that the State reviewed all of its Ph.D., programs in the mid 1980s and eliminated state support for all of them except for Ohio State and this particular program at Ohio University.
Q. I'm glad you said that because I went to Ohio State, so we're both in the running.
A. It has a super history department.
MR. McLAUGHLIN: Ohio State hasn't been the same since.
MR. SMITH: You're going to hate this one because I majored in history at Ohio State so we're really in trouble now. Same subject, as a matter of fact, in my opinion.
BY MR. SMITH:
Q. The Center for the Study of the Presidency.
A. Yeah.
Q. What is that, please?
A. That's a private, nonprofit organization that was formed in the 1960s, mid 1960s, in response to student demonstrations on campus over, first, civil rights issues

and then over the war in Vietnam by a fellow named Gordon Hoxie, H-O-X-I-E, who had taught in a couple of

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community colleges and state colleges on Long Island, and he decided that he wanted to channel this student activity into more positive areas and so established the Center for the Study of the Presidency, which sponsored student conferences on contemporary issues, which it still does.

Q. Did you attend some of those?

A. I have. I attended some, not as a student, I must confess. I only started to attend them as a faculty member. In the '80s I received the publication Presidential Studies, of course, because of my own interest in researching several presidents and then I headed it for a couple of years, that is the organization itself.

Q. President/CEO, I noticed.

A. Yes. It was organized like a corporation because Gordon Hoxie was primarily a businessman. Until I took the job, I really didn't know the difference between a CEO and the president or the executive officer of a corporation.

Q. And you were coeditor and cofounder of the Journal of Womens History.

A. Yes. That arose out of the work I've done in the social history of women and while I was at Indiana I was

again associated with the women's studies program and a colleague of mine in history decided that a national womens history journal was needed because the major journals in history simply did not publish very many articles on women, and they still don't.

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Q. It's the era of the woman though.

A. According to some. That's being currently edited, by the way, at Ohio State.

Q. The periodical or the era of the woman?

A. The periodical.

Q. We'll see a woman president pretty soon.

You're still a professor at Indiana?

A. No. I still have graduate students at Indiana but my affiliation is with Ohio University.

Q. Okay.

A. I, technically --

Q. I'm trying to get my hands on your updated CV.

A. Well, technically, quite frankly, I'm being paid by the College of William & Mary through August because I had an appointment there this past academic year.

MR. PROCTOR: Russ, this is Craig. In the event that you -- I don't know if you currently have before you her current CV but I --

MR. SMITH: I probably do. I gather it's in one of the boxes, but I'm confessing, I can't find it.

MR. PROCTOR: It's the very last document in the very last box.

MR. SMITH: Oh, it is.

MR. PROCTOR: Yeah.

MR. SMITH: Oh, wait a minute. I thought that's how to stop smoking. I'm missing something. Well, we can --

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BY MR. SMITH:

Q. I gather there's not many changes between October '99 and June 2001 or are there?

A. Not really of any substance, I don't think. I've received this professorship at William & Mary this last year, and then I received a Fulbright to Russia next year, but nothing that's terribly substantive.

MR. PROCTOR: Russ, if for some reason you're unable to locate that still, we'll obviously fax you another one, if you have trouble putting your hands --

MR. SMITH: If you could put that as a thing to do, unless I say I find it, I'd be grateful.

MR. PROCTOR: Sure.

BY MR. SMITH:

Q. Fulbright would be great.

You have had that before too though; didn't you?

A. Yes.

Q. 1958 and '59?

A. Yes, I've had several Fulbrights. In fact, it was pointed out to me a couple of years ago that a good deal of my foreign research has been sponsored by the Fulbright program, for which I am eternally grateful.

Q. Are you familiar with a journal called Social History?

A. Very generally, yes.

Q. Is that part of the source material for your work in this case?

A. It hasn't been because to the best of my

http://legacy.library.ucsf.edu/tid/nm05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

knowledge, they haven't published much on the subject of tobacco.

Q. Do you know when the cigarette was invented?

A. Was invented?

Q. Yes.

A. Sometime during the mid 19th Century it began to appear and I think during the course -- I mean, obviously people smoked tobacco in some shape or form but as a kind of widespread or more commonly used product, it seemingly came to the forefront during the Crimean War in the mid 19th Century.

Q. And --

A. Mass production of it, of course, didn't occur in this country until later on in the 1880s.

Q. Was there much mass production before, excuse me,

before the 20th Century?

A. Mass production began in the 1880s.

Q. Was there much of it between 1880 and 1900?

A. Yes. I mean, that's when mass production began.

Q. Have you consummated any tobacco archives in your work in this case or the other cases you've been involved in?

MR. PROCTOR: Object to the form.

THE WITNESS: By archives, you mean what?

BY MR. SMITH:

Q. Specifically accumulated tobacco documents.

A. No, is the general answer. I have cursorily

http://legacy.library.ucsf.edu/tid/nmo05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

reviewed some of the things on the Internet but I haven't consulted the document for research purposes.

MR. PROCTOR: Russ, so I can be clear and so the witness understands, do you mean archives of tobacco industry documents or archives of tobacco information?

MR. SMITH: I'm talking about tobacco information.

MR. PROCTOR: Okay, thank-you.

BY MR. SMITH:

Q. I'm assuming the only link you would have to tobacco industry documents would be through Shook, Hardy & Bacon.

A. I haven't had access through anybody or any group

of tobacco documents.

Q. That would be your only access if you were to have it, would be my guess.

A. No.

MR. PROCTOR: Object to the form.

THE WITNESS: I mean, tobacco documents are available, as I indicated, on the Internet.

BY MR. SMITH:

Q. Tobacco industry documents, in-house documents, you mean?

A. Yes.

Q. Have you consulted them?

A. As I said, I cursorily looked at them when they first began to appear on the Internet.

Q. You haven't studied them as of yet?

http://legacy.library.ucsf.edu/tid/nm05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

A. No.

MR. PROCTOR: Object to the form.

BY MR. SMITH:

Q. Talking about Ohio State, do you know John Burnham?

A. I don't know John Burnham.

Q. Do you know of him?

A. Yes. I know the book.

Q. Is it a well-respected?

A. Bad Habits?

Q. Yes.

A. Yeah, it's actually a fairly well received book in terms of social history.

Q. Would he be considered a leading historian in tobacco, in your opinion?

A. I'm not sure he is a historian. I was under the impression he was a sociologist.

Q. Would he be a leading person with respect to knowledge as to tobacco?

A. Well, he has written on tobacco and I've read his book, so that leading is relative. He's certainly written about smoking as a social habit.

Q. Have you made any inquiry as to the cigarette filters?

MR. PROCTOR: Object to the form.

THE WITNESS: Inquiry, you mean other than looking at newspaper articles which reported on them or --

http://legacy.library.ucsf.edu/tid/nmo05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

BY MR. SMITH:

Q. As to, do you know when they were first invented?

A. First reference I recall seeing was in the early '50s.

Q. Do you think -- withdraw that.

What is your understanding as to the reason filters were introduced?

MR. PROCTOR: Object to the form, it goes beyond

her expert testimony, but she can answer with her own personal opinion.

THE WITNESS: The reason they were introduced?

BY MR. SMITH:

Q. Yes. Your counsel or he's not your counsel really.

Do you consider Craig Proctor to be your lawyer?

A. No.

Q. Do you consider filters outside your expertise?

MR. PROCTOR: Object to the form.

THE WITNESS: In terms of their function, their scientific or whatever function in terms of filtering smoke, I surely do, yes.

BY MR. SMITH:

Q. From a historical standpoint, the purpose for their introduction, do you have an opinion regarding that?

A. I don't really because it would involve me in a kind of scientific projection.

Q. As you understand it, did the cigarette industry cause them to do anything different from the ordinary

http://legacy.library.ucsf.edu/tid/mm05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

cigarettes?

MR. PROCTOR: Object to the form.

THE WITNESS: Again, I don't know whether the industry did this, but if you look at the 1957 congressional hearing, Congress had become concerned about

perhaps some of the health claims that were being projected about the use of filters, but that's in a very general way, that the Congress became involved in the whole filter question.

BY MR. SMITH:

Q. Is it your understanding that there were concerns that they might be misleading and by, they being misleading, I mean claims regarding filters?

MR. PROCTOR: Object to the form.

THE WITNESS: I think certain members of Congress were concerned about that.

BY MR. SMITH:

Q. Whether or not they were misleading is not something of which you have an opinion?

A. Not really because again, it was quite a detailed congressional hearing which while it was reported in some of the newspapers, wasn't given broad coverage.

Q. Do you have an opinion as to whether or not the tobacco industry was aware of dangers of smoking in the 1930s?

A. In the 1930s?

MR. PROCTOR: Object to form.

http://legacy.library.ucsf.edu/tid/nni05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

THE WITNESS: Since I wasn't looking at tobacco industry documents, the answer would be, no.

BY MR. SMITH:

Q. You have no opinion one way or the other?

A. No, I don't really.

Q. How about the 19- -- do you have a belief one way or the other?

MR. PROCTOR: Object to the form.

THE WITNESS: No.

BY MR. SMITH:

Q. In the 1940s, do you have an opinion as to whether or not the tobacco industry was aware of dangers of tobacco smoking?

MR. PROCTOR: Object to the form.

BY MR. SMITH:

Q. I'm going to restate that. I agree. I'm going to restate that.

Dr. Hoff, do you have an opinion as to whether or not in the 1940s the tobacco industry was aware that there were certain health risks created by the smoking of cigarettes?

MR. PROCTOR: Object to the form.

THE WITNESS: To the degree that the tobacco industry was aware of these emerging scientific studies.

BY MR. SMITH:

Q. And do you have an opinion as to whether or not the tobacco industry was aware of these emerging scientific studies?

http://legacy.library.ucsf.edu/tid/rmo05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

A. I don't have an opinion that would be based on internal tobacco documents, if that's what you're asking.

Q. You've never seen the documents but were the scientific studies publicly available in the 1940s?

A. As the --

MR. PROCTOR: Object to the form.

THE WITNESS: The studies, as they became public knowledge, were obviously available, at least in the popular media, in condensed form.

BY MR. SMITH:

Q. Were they also available in scientific journals?

A. Yes.

Q. Do you have an opinion as to whether or not in the 1940s the tobacco industry had access to scientific journals?

A. I don't have an opinion on it. I would make the assumption that obviously they would.

Q. Were you aware that Roper did polls for Philip Morris?

A. Yes.

Q. Do you have access to any of their polling information?

A. I've looked at Roper and Gallup but I've primarily used the Gallup polls.

Q. Have you had access to the Roper private polls

http://legacy.library.ucsf.edu/tid/mm05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

that they did for Philip Morris that are not publicly available?

A. No.

MR. SMITH: Could we have about, oh, two and-a-half minutes?

MR. PROCTOR: Sure.

MR. SMITH: Would that be okay with everyone?

THE WITNESS: Fine.

(There was a short break taken.)

MR. PROCTOR: Back on the record, Russ?

BY MR. SMITH:

Q. Okay. Thanks for your patience. I'd like to go back in time on some of the smoking issues.

There is a difference between a moral claim and a medical claim as far as cigarette smoking is concerned, I believe; would that be true?

MR. PROCTOR: Object to the form.

THE WITNESS: Just in terms of the words you're using, the answer would be, yes.

BY MR. SMITH:

Q. And there were, going way back in time, there were some religious groups as far as reform activity with tobacco use; is that true?

A. Yes, that's true.

Q. And some of that was involving moral issues; would

that be true?

http://legacy.library.ucsf.edu/tid/nm05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

A. Yes, but even the religious groups used what they thought at the time, say, the late 19th Century were also physical harms of smoking.

Q. And when we say now with cigarettes are you talking about before cigarettes or after? I'm sorry, Dr. Hoff.

A. Well, it depends on whether you are -- but I think if you look at religious comments going back over the last couple of centuries, they're not only moral, but usually they contain admonitions against smoking or use of tobacco products for physical reasons as well.

Q. Snuff went way back in time. There were people opposed to snuff, as I understand it.

A. Yes, yes.

Q. Incidentally, the Delores Mitchell, is that a name that you're familiar with?

A. I don't believe so, Delores Mitchell? No.

Q. Or Cheryl Warsh?

A. How is that spelled?

Q. W-A-R-S-H?

A. W-A-R-S-H? No.

Q. Or W-A-L-S-H, maybe, I could be saying that wrong. Either one?

A. No. What's the first name on Walsh?

Q. Cheryl, C-H-E-R-Y-L.

A. No, I'm not.

Q. Okay. You used the phrase, coffin nails, at some

http://legacy.library.ucsf.edu/tid/rrn05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

point in your report.

A. Uh-huh.

Q. Coffin nails, does the term coffin nails go back before the creation of cigarettes?

A. Most of the early -- the earliest references I've seen in newspapers do come in the 1880s, 1890s, at the turn of the last century, so probably the association is largely with cigarettes, though it could have applied to cigars as well.

Q. When did people start talking about cancer?

A. In what sense?

Q. Human cancer.

MR. PROCTOR: Object to the form.

Russ, are you talking about linked to cigarettes?

MR. SMITH: No, sir.

MR. PROCTOR: Okay, thank you.

THE WITNESS: You're referring basically in this country, I assume too.

BY MR. SMITH:

Q. Well, it could be anywhere, actually. I wouldn't limit it to this country.

A. In terms of my research, the first reference I saw linking it in this country was in 1761, a medical doctor thought that he had seen a correlation between -- not in this instance cigarettes but in use of tobacco products and cancer. In this case, specifically lung cancer, but it was an isolated kind of finding at the time.

http://legacy.library.ucsf.edu/tid/rnn05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

Q. That particular piece of information appeared where?

A. In one of the secondary sources I looked at.

Q. And it was a report of a single incident?

A. Well, it was reported in the secondary account as, again, an isolated report that this doctor had linked tobacco to cancer.

Q. Do you think that the scientific community should take such reports seriously?

MR. PROCTOR: Object to the form.

THE WITNESS: Certainly there would have been no reason to in 1761.

BY MR. SMITH:

Q. Have you read that at some point in time where there was a fear that smoking would make someone crazy?

A. Oh, yes, that was a very commonly held view.

Q. That would have been during approximately what period?

A. Well, again, one can see it emerging from the

Civil War forward, but it picks up speed with the reform movements of the 1880s and 1890s as temperance movement or the temperance movement gains strength and they take up the question of tobacco products as well. So that you have references to use of tobacco products causing some kind of mental deficiency, whether it's insanity, per se, or simply dullness of thought, is another question.

Q. Stunting your growth?

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Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

A. Pardon me? Yes, that was common as well.

Q. Is that around the time period when they were talking about coffin nails?

A. Again, the coffin nail, the slang term came into existence in the popular press of the 1880s and 1890s.

Q. The talk about driving you mad or crazy and stunting your growth, dulling your senses, coffin nails, they started up around the same general time period, at least, with any frequency?

A. Yeah, in terms of use of those slang terms by major newspapers, that's true.

Q. Do you remember any other claims they were making much of at that time period, 1880s, 1890s regarding smoking?

A. They made very broad claims about the health hazards of smoking outside of stunting your growth. They maintained that as -- some of the very earliest ones

argued that people who smoked died earlier or died sooner than others. These kinds of claims go back really to the beginning of the 19th Century.

Q. Were there claims also made that such people were morally corrupt or morally weak?

A. Perhaps by inference, you could say that. You have to consider the socioeconomic conditions of the 1880s and 1890s, initially those people who smoked or who were the obvious smokers, let's say, were immigrants. Very often they were criminal elements and consequently the temperance movement or religious groups would have singled

http://legacy.library.ucsf.edu/tid/nmo05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

these groups out, not so much because they were hopelessly morally deficient, but that they just simply didn't know better and they needed to be educated about the health hazards and the other problems associated with it.

Q. Were women who smoked at some point in time considered morally loose?

A. Well, they certainly didn't smoke in public in the 1880s and 1890s and by the time women did begin to smoke in the 1920s, it became, referring back to John Burnham's book, it became an acceptable middle-class vice for women to smoke. So the answer generally is that to the degree that women immigrants might have smoked or that prostitutes perhaps smoked in the 1880s and 1890s, there might have been a negative reference to those kinds

of women, but by the 1920s, smoking is becoming an acceptable middle-class habit.

Q. Did you make any determinations or arrive at any opinions as to why criminal elements and prostitutes smoked?

A. Not really. Again, you have to look, as I said, the socioeconomic context of the 1880s and 1890s, cigarettes were cheap and if you were going to use tobacco products, poor groups like immigrants and then criminals of various kinds could obtain them very easily and afford them.

MR. SMITH: Do we have copies of all of the footnoted items in Dr. Hoff's report? My impression is

http://legacy.library.ucsf.edu/tid/rmo05a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/zfxd0001

from our discussions today that we have some but not all.

MR. PROCTOR: I'm fairly confident that you have all.

MR. SMITH: If we don't have all, I'd respectfully --

MR. PROCTOR: Russ, if for some reason you don't, I would agree that you're entitled to a copy of materials cited specifically in her expert report.

THE WITNESS: I certainly have seen all of them, so I assume you have them.

BY MR. SMITH:

Q. I'm assuming that polling is not an area of your

expertise.

A. That's correct.

Q. You refer at Page 18 of your report, Footnote 49, to Dr. Knepper.

A. Yes.

Q. Can you tell me what part of his book, Ohio and Its People, helps you place tobacco in an accurate context for Ohio?

A. I looked specifically, for one thing it's the latest text on Ohio, as far as I know, having been published in '97, but I looked specifically for his discussion of religious groups and reform movements because those were the groups, let's say the Presbyterians or the Congregationalists or the Methodists, who were active in both the temperance and anti-tobacco movements. So I used it again to get a historical sense of that kind

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of activity for the state of Ohio.

Q. I notice on Page 6, in Footnote 3, it talks about young boys who smoked and refused to go to school.

A. Uh-huh.

Q. Are they saying that's why they didn't go to school or --

A. In part, yes, because they were out on the streets smoking, so they established these really special penal institutions, of sorts, for them. House of refuge was a

euphemism, I think.

MR. PROCTOR: Russ, are you giving us a nonaudible signal that you're wrapping up?

MR. SMITH: Not yet.

MR. PROCTOR: Okay, just curious.

BY MR. SMITH:

Q. Dr. Hoff?

A. Yes.

Q. That's all I have.

A. Okay, sir.

Q. I'd just as soon be skiing.

A. I'd just as soon be hiking, so thank you.

MR. SMITH: When we get a transcript I would like a -- I call them four-to-a-pagers, but the miniscripts or whatever they're called and I'd like a disc.

(The deposition concluded at 12:25 p.m.)

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Deponent's Certificate

I, DR. JOAN HOFF, deponent herein, declare under penalty of perjury that I have read the foregoing transcript of my deposition in said action taken on Friday, June 29, 2001. That I have made any corrections necessary that I was desirous of making and that the foregoing is a true and correct transcript of my testimony contained therein.

DATED this _____ day of ____________, 2001.

____

Deponent.

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Reporter's Certificate

State of Montana)
County of Gallatin)

I, Laurine Brinkman, a Registered Professional Reporter (RPR) and Notary Public for the State of Montana, do hereby certify that the foregoing proceedings were taken before me at the time and place set forth herein. That the witness was duly sworn to tell the truth, the whole truth and nothing but the truth and that the proceedings were taken down by me in shorthand and thereafter transcribed into typewritten form under my direction and supervision.

That the foregoing 98 pages contain a true and correct transcription of my said shorthand notes so taken.

In witness whereof I have subscribed my name and affixed my seal this 11th day of July 2001.

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Notary Public
My commission expires

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March 20, 2004.

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